

EXHIBIT U

In The Matter Of:

BANK LEUMI USA

v.

DAVID EHRLICH, ANGELA TYKOCKI

DONALD L. BITTKER - Vol. 1

June 18, 2014

MERRILL CORPORATION

Legalink, Inc.

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10th Floor
New York, NY 10017
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DONALD L. BITTKER - 6/18/2014

Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

BANK LEUMI USA,

Plaintiff,

-against-

DAVID EHRLICH, ANGELA TYKOCKI, ENRIQUE EHRLICH,
and SARA GOLDSTEIN

Defendants.

- - - - - x

160 Broadway
New York, New York

June 18, 2014
9:56 a.m.

DEPOSITION of BANK LEUMI USA, a Plaintiff in the
above-entitled action, by DONALD L. BITTKER, held at the
above time and place, pursuant to Notice, taken before
Stephanie Hicks, a shorthand reporter and Notary Public
within and for the State of New York.

DONALD L. BITTKER - 6/18/2014

Page 2

1 A p p e a r a n c e s :

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MAYER BROWN, LLP

Attorneys for Plaintiff

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1675 Broadway

New York, New York 10019

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BY: JAMES ANCONE, ESQ.

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ALCANTAR LAW, PLLC

Attorney for Defendants

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22 Cortlandt Street, 16th Floor

New York, New York 10007

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BY: JOSE RAUL ALCANTAR, ESQ.

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DONALD L. BITTKER - 6/18/2014

Page 14

1 Leumi USA affiliate be acting while opening or helping
2 complete the initial personal contact with a prospective
3 client?

4 A. He would be acting as a representative of Bank
5 Leumi USA.

6 Q. As a representative --

7 A. Of Bank Leumi USA. For many years, The Leumi
8 Group maintained a network of representative offices in
9 Latin America.

10 Q. What years were those?

11 A. Certainly, from the time I started my employment
12 at Bank Leumi USA, and those offices were closed down
13 and I believe they cease to exist, perhaps five years
14 ago, perhaps ten years ago, I cannot give a specific
15 date for the closing of that network of rep offices. I
16 should add that those rep offices were offices of our
17 parent, Bank Leumi le-Israel B.M., but they did
18 facilitate the opening of accounts, whether at Bank
19 Leumi USA or other banking units of the Bank Leumi
20 Group, including an account at our parent, Bank Leumi
21 le-Israel B.M., which is a major Israeli bank.

22 Q. By representative branch or --

23 A. Office.

24 Q. Or representative office --

25 A. Office, we call it a rep office.

DONALD L. BITTKER - 6/18/2014

Page 24

1 This should be marked as Defendant's
2 Exhibit A.

3 (One-page document was marked as
4 Defendant's Exhibit A for identification, as
5 of this date.)

6 MR. ANCONE: Can we just give the
7 witness the one that's been marked?

8 MR. ALCANTAR: Yes (handing).

9 Q. Mr. Bittker, is the text on the page that I gave
10 you familiar to you?

11 A. Yes.

12 Q. How is this familiar to you?

13 A. I wrote it, I arranged for its reproduction.

14 Q. Now, if you could read the text for the record on
15 the bottom left-hand corner?

16 A. It says, "FORM 1336 REV 6/02."

17 Q. Do you know what that means?

18 A. Yes.

19 Q. What does that mean, Mr. Bittker?

20 A. It means that the printing order for this
21 document was placed on or about June 2002.

22 Q. Do you know under whose authority the printing
23 order was placed? Just to clarify, I'm not referring to
24 the person, for example, who sent the e-mail or made the
25 phone call to place the printing order, but the person

DONALD L. BITTKER - 6/18/2014

Page 25

1 that decided to place the printing order.

2 A. Well, I would have -- as the draftsman, I would
3 have signed off on the contents of this document, which
4 is rather lengthy. I believe I would have communicated
5 to what was then a document management unit within Bank
6 Leumi USA for the -- for the printing, I would have
7 received from the business unit information as to the
8 number of copies, I would have sent to the printer,
9 possibly by e-mail, the text of the booklet -- excuse
10 me, text of the booklet is wrong, the text to be printed
11 in the form of a booklet.

12 Q. Okay, thank you.

13 A. That would have been, most likely, a Word
14 document, so I had control over the Word document up to
15 the time it was sent to the printer.

16 Q. So that is what you mean when you say "signed off
17 on the printing"?

18 A. Yes, correct.

19 Q. And why did you sign off on the printing, why did
20 you call for the printing of this booklet?

21 A. Because the business unit was desirous of a
22 revision to the international account terms. I had
23 numerous discussions with --

24 MR. ANCONE: I'm just going to caution
25 the witness not to reveal any client

DONALD L. BITTKER - 6/18/2014

Page 27

1 document.

2 Q. Now, to the extent you recall based on your
3 knowledge, would the International Financial Services
4 Arrangements have supplanted the International Account
5 Terms upon receipt of this new booklet by the business
6 unit?

7 MR. ANCONE: Just object to the form.

8 A. (No verbal response.)

9 MR. ANCONE: You can answer.

10 A. No, because the account application had not been
11 revised to reflect -- to refer to the International
12 Financial Services Arrangements. This was a two-step
13 process to obtain the efficacy of the International
14 Financial Services Arrangements booklet, the printing of
15 the booklet was step one. Step two was the change in
16 the international account application to refer to the
17 International Financial Services Arrangements, I believe
18 that second step was undertaken only at the very end of
19 the year 2002.

20 MR. ALCANTAR: Now, I'll paraphrase the
21 same question, simply because there was an
22 objection.

23 Q. Do you recall when the International Financial
24 Services Arrangements became effective?

25 A. Well, the answer depends on the particular

DONALD L. BITTKER - 6/18/2014

Page 28

1 account relationship. For some accounts, to this day,
2 2014, my understanding is this booklet is still not
3 effective, in other words, we did not make an effort to
4 put every international relationship on the same
5 platform, if you will, we did not make an effort to
6 inform existing relationships that your relationship
7 with Bank Leumi USA will now be governed by this
8 document.

9 For customers which opened their account using a
10 revised account application, revised in the sense that
11 it referred to the International Financial Services
12 Arrangements, the arrangements would be effective
13 obviously upon the signing of that application by the
14 customer or, more specifically, the opening of the
15 account by BLUSA pursuant to that signed application.

16 So again, this is -- this could only be answered
17 on the basis of the particular relationship, there is no
18 general answer that can be given.

19 MR. ALCANTAR: So I'll rephrase my
20 question to the extent, and only to the
21 extent, that the International Financial
22 Services Arrangements are effective.

23 Q. When would that effectiveness have occurred the
24 first time these terms applied to an account
25 application?

DONALD L. BITTKER - 6/18/2014

Page 36

1 our right to review and sign the deposition
2 transcript.

3 (Whereupon, the examination of Donald L.
4 Bittker was concluded at 11:23 a.m.)

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DONALD L. BITTKER

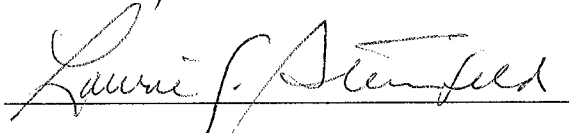
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10 Subscribed and sworn to
before me this 31st day

11 of July, 2014.

12



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NOTARY PUBLIC

14

LAURIE J. STEINFELD
Notary Public, State of New York
No. 01ST6181308

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Qualified in New York County
Commission Expires January 28, 2016

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DONALD L. BITTKER - 6/18/2014

Page 37

1 I N D E X

2

3 WITNESS EXAMINATION BY PAGE

4 Donald L. Bittker Mr. Alcantar 4

5 Mr. Ancone 34

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7 E X H I B I T S

8 DEFENDANT'S PAGE

9 A One-page document 24

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DONALD L. BITTKER - 6/18/2014

Page 38

1 C E R T I F I C A T E

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3 I, STEPHANIE HICKS, a reporter and Notary Public
4 within and for the State of New York, do hereby certify:

5 That the witness(es) whose testimony is hereinbefore
6 set forth was duly sworn by me, and the foregoing
7 transcript is a true record of the testimony given by
8 such witness(es).

9 I further certify that I am not related to any of the
10 parties to this action by blood or marriage, and that I
11 am in no way interested in the outcome of this matter.

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DONALD L. BITTKER - 6/18/2014

Page 39

1 ERRATA SHEET

2

3 The following are my corrections to the attached
4 transcript:

5

6	PAGE	LINE	SHOULD READ
7	<u>12</u>	* <u>13</u>	<u>customer. The</u>
8	<u>12</u>	* <u>16</u>	<u>regulations. The</u>
9	<u>12</u>	* <u>22</u>	<u>context. Its</u>
10	<u>13</u>	* <u>5</u>	<u>contact. We</u>
11	<u>13</u>	* <u>6</u>	<u>mail. We</u>
12	<u>13</u>	* <u>7</u>	<u>transmissions We</u>
13	<u>13</u>	* <u>14</u>	<u>prospective customer--</u>
14	<u>14</u>	* <u>13</u>	<u>ceased</u>
15	<u>14</u>	* <u>14</u>	<u>ago. I</u>
16	<u>15</u>	* <u>17</u>	<u>applicant--they</u>
17	<u>18</u>	* <u>8</u>	<u>America. I</u>
18	<u>18</u>	* <u>23</u>	<u>that. I</u>
19	<u>18</u>	* <u>24</u>	<u>Uruguay. I</u>
20	<u>20</u>	* <u>22</u>	<u>customers to sign a</u>
21	<u>21</u>	* <u>4</u>	<u>International Account Terms. 1</u>
22	<u>31</u>	* <u>25</u>	<u>dual-hatted</u>
23	<u>32</u>	* <u>4</u>	<u>dual-hatted</u>
24	<u>35</u>	<u>8</u>	<u>claims arising</u>
25	<u>35</u>	<u>13</u>	<u>Claims Conference</u>

end

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D.L. Bittker
7-31-14